FIRST CIRCUIT COURT OF APPEALS
DISTRICT OF MASSACHUSETTS

U.S. DISTRICT COURT
DOCKET NO. 05-CV-11119 PBS

****

HAROLD KOLTIN, EDITH KOLTIN, *
AND THEODORE KOLTIN, *
Plaintiffs, *
*
v. *
*
CITY OF FALL RIVER, FALL RIVER *
POLICE DEPARTMENT, et als, *
Defendants. *

****

PLAINTIFF'S VERIFIED MOTION FOR STAY OF PROCEEDINGS DUE TO EXTRAORDINARY CIRCUMSTANCES

I, Harold Koltin, the undersigned Plaintiff in the above-captioned case, do hereby attest that the following statements are true and accurate to the best of my knowledge and belief.

Now comes the Plaintiff Harold Koltin in the above-captioned case and moves that this Court stay the proceedings in the appeal process for whatever the Court deems to be a reasonable period of time under the circumstances.

As reasons thereof, the Plaintiff states the following facts:

1. The undersigned Plaintiff's long-term severe ulcerative colitis status has now further deteriorated because of the recent recurrence of multiple pseudoployps in his colon, another pre-cancer indicator on the already present pre-cancer indicator of the severe ulcerative colitis itself, preventing essential surveillance of the colon because of the inability to biopsy extensive areas of the colon without potentially fatal outcomes of uncontrolled bleeding and/or perforation of the wall of the colon. [SEE Exhibit 1]

2. The undersigned Plaintiff has just yesterday been released from the Beth Israel Deaconess Medical Center having undergone another colonoscopy during which it was revealed by direct observation that the multiple pseudopolyps seen in the July, 2007, procedure were now accompanied by the most extensive recurrence of severe ulcerative colitis in his 36 ½ -year history of the disease. These findings have led the Plaintiff's gastroenterological health providers to unanimously agree that the disease has progressed to a level where total (or at least sub-total) removal of the Plaintiff's colon is essential in order to prevent a markedly increased chance for any lurking cancer to rapidly metastasize to the liver, in which case surgery would

not be an option, and the patient would be put on palliatives until he dies. [SEE Exhibit 1]

3. A date for the surgical removal of all or most of the undersigned Plaintiff's colon has set for January 14, 2008, by the surgeon who would be performing the operation. The Plaintiff is not prepared to begin his fourth year of homelessness by having a radical and complicated medical operation performed on the third anniversary of the unlawful execution of eviction of him from his apartment – while he remains homeless and shelter-less and living on the street without his colon.

4. Moreover, the undersigned Plaintiff has been put back on the maximum dosage of the severely immune system compromising effects of methylprednisolone, adding to his already severely compromised immune system. [SEE Exhibit 2]

5. The undersigned Plaintiff, in addition to dealing with a severely compromised immune system, directly and proximately related to his severe obstructive sleep apnea, is not able to alleviate his extreme daytime fatigue by the use of a "CPAP" (controlled pressurized air passageway) electrically-operated "breathing machine," because he remains indigent, homeless, shelter-less, and otherwise disabled by major depressive disorder, panic attacks, anxiety disorder, and medications which add to his compromised immune system. [SEE Exhibit 3]

6. The undersigned Plaintiff suffers from extreme daytime fatigue due to a medical diagnosis of "extreme daytime fatigue" secondary to a primary diagnosis of "severe obstructive sleep apnea." [SEE Exhibit 4]

7. The Plaintiff Harold Koltin has not yet received a decision by the First Circuit Court regarding the Plaintiffs' Motion for Appointment of Plaintiffs' counsel for this case at this level of said case, timely submitted on or before November 5, 2007.

WHEREFORE, the undersigned Plaintiff seeks a reasonable stay of the Appeals Court proceedings until his life-threatening and immediate survival concerns become less critical.

Signed under the pains and penalties of perjury on this the 19th day of December, 2007.

By the Co-Plaintiff,

Harold Koltin

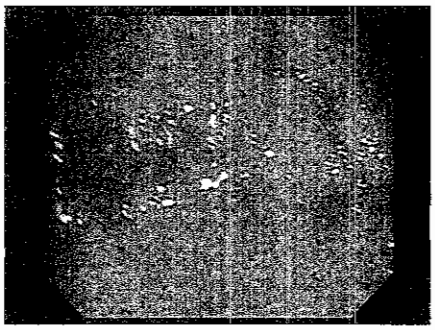
Harold Koltin
P.O. Box 275
Malden, MA 02148
(781) 420-9872

Date: December 19, 2007

EXHIBIT 1

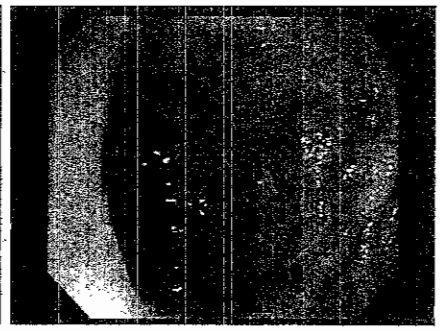
Colonoscopy Report

BETH ISRAEL DEACONESS MEDICAL CENTER
East Campus
330 Brookline Avenue
Boston, MA 02215
Phone: (617) 667-2135

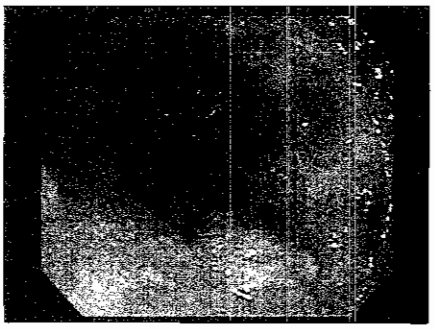


rectum- relatively normal

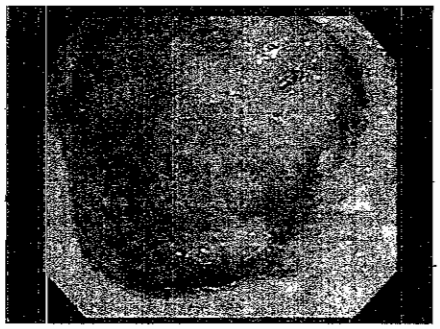
30 cm area of normal mucosa



40 cm area of colitis

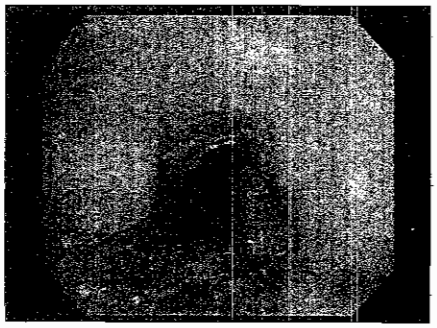


pseudopolyps ? Crohn's

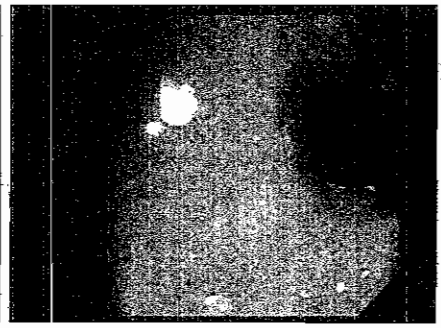


? Crohn's colitis

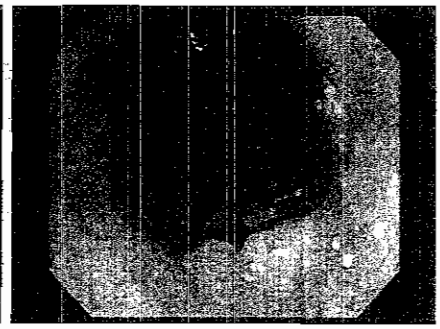
broad ulcers ? Crohn's disease



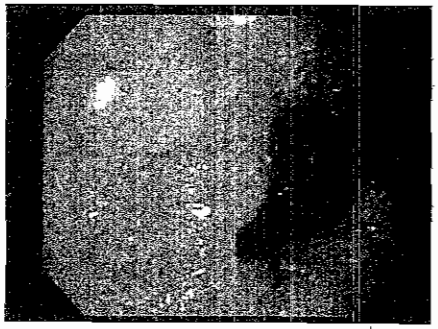
narrowed colon in left side



severe colitis-descending colon

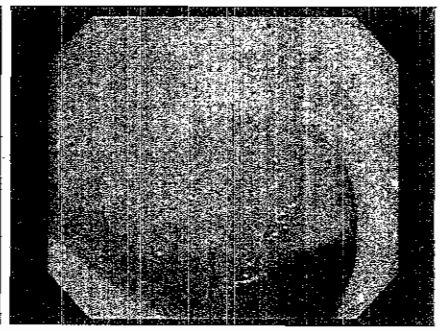


severe descending colon cahanges

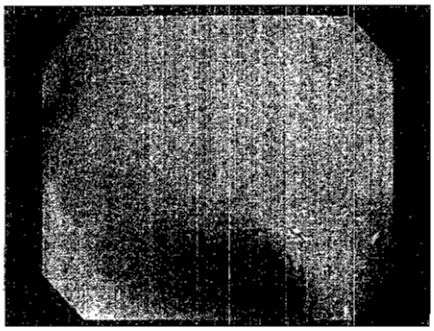


normal tissue in right colon

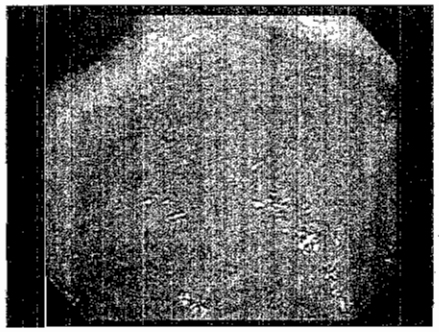
wide open entrance to ileum from cecum



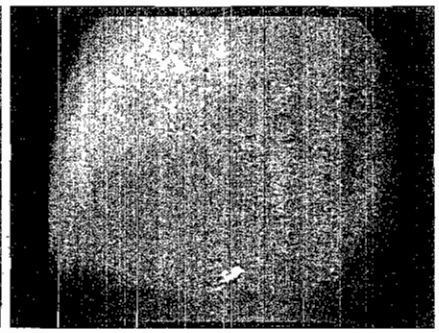
normal vascular pattern of ileum



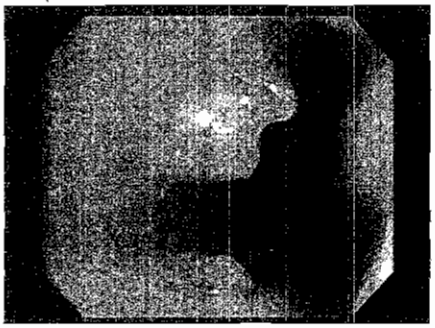
terminal ileum



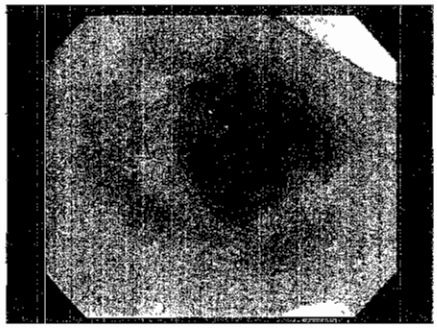
cecum with no colitis changes



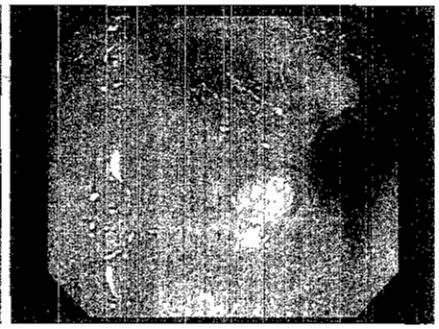
appendiux



area iof mild narrowing and pseudopolyps

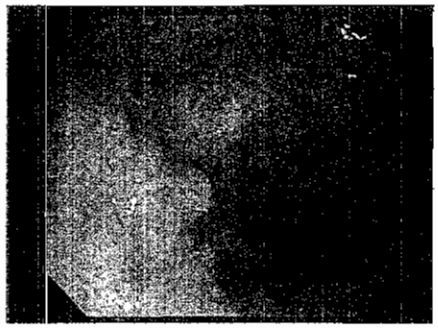


narrowed mild strictured area in mid-descending colon

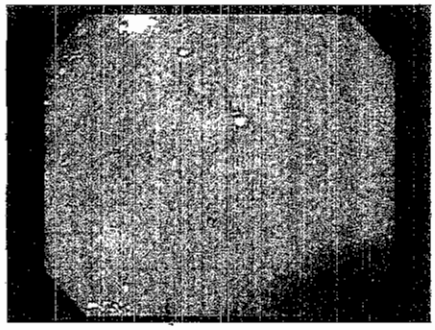


severe colitis in mid-descending colon

severe colitis in mid-descending colon



pseudopolyp insigmoid colon at 40 cm



normal rectosigmoid colon

Date:	Monday, December 17, 2007	**Endoscopist(s):**	Helen Shields, MD
Patient:	**Harold Koltin**	**Ref. Phys.:**	Alex Gonzalez, MD
		Assisting Nurse (s)/ Other Personnel:	Katherine Ann Hougland, RN
Birth Date:	6/29/1949 (58 years)	**Instrument:**	pcf180al
ID#:	008 12 99		

Medications: Midazolam 2.5mg
Fentanyl 125 mg

Indications: Surveillance of ulcerative colitis
Notes recent flare of symptoms with bleeding.

Procedure: The procedure, indications, preparation and potential complications were explained to the patient, who indicated his understanding and signed the corresponding consent forms. A physical exam was performed. The patient was administered conscious sedation. The patient was placed in the left lateral decubitus position and the colonoscope was introduced through the rectum and advanced under direct visualization until the cecum was reached. Careful visualization of the colon was performed as the colonoscope was withdrawn. The colonoscope was retroflexed within the rectum. The procedure was not difficult. The quality of the preparation was good. The patient

Exhibit 2

tolerated the procedure well. There were no complications.

Findings:

Mucosa: Patchy large ulcerations in descending and transverse colon looking somewhat like Crohn's disease. were noted. Granularity, erythema and congestion were noted in the distal rectum. Normal mucosa was noted in the terminal ileum, cecum, ascending colon, sigmoid colon distal to 30 cm and proximal rectum. No nodularity or ulceration was noted in the terminal ileum.

Protruding Lesions Segmental pseudopolyps were found in the transverse colon, splenic flexure and descending colon.It was impossible to tell whether all the polyps were pseudoipolyps or dysplastic masses of tissue. Medium grade 2 internal hemorrhoids were noted.

Other procedures:
Cold forceps biopsies were performed for histology at the terminal ileum.
Cold forceps biopsies were performed for histology at the cecum.
Cold forceps biopsies were performed for histology at the polyp at 60 cm.
Cold forceps biopsies were performed for histology at the transverse colon at 70 cm.
Cold forceps biopsies were performed for histology at the 60 cm musoca.
Cold forceps biopsies were performed for histology at the 50 cm.
Cold forceps biopsies were performed for histology at the 40 cm.
Cold forceps biopsies were performed for histology at the 35 cm.
Cold forceps biopsies were performed for histology at the 30 cm.
Cold forceps biopsies were performed for histology at the 25 cm.
Cold forceps biopsies were performed for histology at the 20 cm.
Cold forceps biopsies were performed for histology.
Cold forceps biopsies were performed for histology at the 5cm.
Cold forceps biopsies were performed for histology at the 3 cm.

Impression:
Normal mucosa in the terminal ileum, cecum, ascending colon, sigmoid colon distal to 30 cm and proximal rectum
Pseudopolyps in the transverse colon, splenic flexure and descending colon (biopsy, biopsy, biopsy, biopsy, biopsy, biopsy, biopsy, biopsy, biopsy, biopsy, biopsy, biopsy, biopsy)
Grade 2 internal hemorrhoids
No nodularity or ulceration in the terminal ileum
Patchy large ulcerations in descending and transverse colon looking somewhat like Crohn's disease. in the colon
Granularity, erythema and congestion in the distal rectum

Recommendations: Severe flare of ulcerative colitis approximately 5 months off Remicade therapy.
Impossible to tell whether patient has dysplasia or cancer in this difficult to evaluate colon. Patient wishes to try Humira although he insisted on being taken off Remicade for increased pulmonary infections.Had arthralgias and amylagias to 6-mercaptopurine in the past so not a candidate for a re-challenge with this.
Plan:
Begin prednisolone 60 mg daily tonight and then tomorrow, 12/18/07, begin prednisolone 60 mg on a daily basis in AM.
Consult to Dr. Alan Moss for ? Humira is a possible drug given infectious complications with Remicade.
Consult to Dr. peter Mowschenson, who has seen him in the past , for possible subtotal colectomy for inability to do surveillance on his colon after 30 years of disease and poorly controlled colitis that could be Crohn's or ulcerative colitis.
Await biopsies and will get pathology consult after biopsies are available to view.

Additional notes: The patient's reconciled home medication list is appended to this report.

Helen Shields, MD
Case documented on 12/17/2007 1:43:22 PM
Patient: **Harold Koltin** (008 12 99)

EXHIBIT 3

Beth Israel Deaconess Medical Center

A teaching hospital of Harvard Medical School

March 27, 2007

Alex Gonzalez, M.D.
330 Brookline Avenue, West
Deaconess Building, Room 300
Boston, MA 02215

RE: Harold Koltin
MR#: 81299

Dear Dr. Gonzalez:

We had the pleasure of seeing your patient, Mr. Harold Koltin in Sleep Medicine Clinic on 03/27/2007 in followup regarding his obstructive sleep-disordered breathing. He was seen in conjunction with Dr. Geoffrey S. Gilmartin.

Mr. Koltin is a 57-year-old man with a history of depression, anxiety, ulcerative colitis, and obstructive sleep-disordered breathing who is supposed to be on CPAP 9 cm. Mr. Koltin was recently hospitalized twice for diarrhea and treated for ulcerative colitis flares. He was last seen in sleep clinic in September 2006 and started on CPAP 9 cm at that time.

Mr. Koltin was originally seen in sleep clinic in May 2006 for snoring, excessive daytime sleepiness, and delayed sleep phase. He underwent a split night polysomnogram in September 2006, which revealed severe REM-dominant sleep-disordered breathing, an RDI of 97.59, an AHI of 38.75, and oxygen desaturation to 75%.

Mr. Koltin reports that he received his CPAP equipment in September and used it for three or four nights, but developed a sore on his nose and stopped using it. He had a full facemask, and he found that he did have some trouble adjusting to using the equipment. Mr. Koltin has tried to call North Atlantic Medical many times and has never been able to receive a new mask from them. He is quite frustrated with the service he has gotten from North Atlantic.

Mr. Koltin also had difficulty over the winter because the distilled water that he had for the humidifier was freezing in his car, and also he at times had trouble finding a bed in the shelter that was near an outlet so that he could use the CPAP.

Mr. Koltin, however, feels that the extreme tiredness that he was having back in September has somewhat improved despite lack of treatment. Mr.Koltin is not exactly sure what has made the difference. He is currently on a high-dose of methylprednisolone for the ulcerative colitis flare, and this may be contributing to his feeling of increased energy.

Beth Israel Deaconess Medical Center

A teaching hospital of Harvard Medical School

Sincerely,

Geoffrey S. Gilmartin, M.D.

Sherrie Rawlins MD

lectronic Signature on File]

-Addendum- 04/12/07

On this day I was present with and reviewed today's note of Dr. Rawlins for the key portion of the service provided. I agree with the findings and plan of care.

GEOFFREY S. GILMARTIN, MD

lectronic Signature on File]

[SOURCE: OMR]

EXHIBIT 4

FENWAY COMMUNITY HEALTH

Medical Department
7 Haviland Street
Boston, Massachusetts 02115-2683

Telephone 617 267-0900
Facsimile 617 247-3460

www.fenwayhealth.org

June 29, 2007

RE: HAROLD KOLTIN
PO BOX 275
MALDEN, MA 02148

To Whom It May Concern:

Fenway

HAROLD KOLTIN is taking the following medications:

FOLIC ACID TAB 1MG (FOLIC ACID) 2 tabs PO QDAY - prescribed by Dr. Helen Shields
FISH OIL 500 MG CAPS (OMEGA-3 FATTY ACIDS) 3 caps PO BID - prescribed by BIDMC Lipid Clinic
CALCIUM CARBONATE TABS (CALCIUM CARBONATE TABS) 1 tab PO BID to QID - prescribed by Dr. Helen Shields
VITAMIN D TABS (VITAMIN D TABS) 1 tab PO QDAY - prescribed by Dr. Helen Shields
MULTIVITAMIN CAP (MULTIPLE VITAMIN) 1 cap po every day
NIZORAL 2 % SHAM (KETOCONAZOLE) 1 APPLICATION TO AFFECTED AREAS OF SKIN BID PRN - PRESCRIBED BY BIDMC DERMATOLOGY
BETAMETHASONE DIPROPIONATE 0.05 % OINT (BETAMETHASONE DIPROPIONATE) 1 application to affected areas of skin twice a week PRN - prescribed by BIDMC Dermatology
KLONOPIN TAB 1MG (CLONAZEPAM) 1 tab po bid plus 1 tab PO PRN anxiety - prescribed elsewhere
ZOLOFT TAB 100MG (SERTRALINE HCL) 1 tab PO BID - prescribed elsewhere

for the following CHRONIC medical problems:

Current Problems:
CHRONIC COLITIS, OTHER ULCERATIVE (ICD-556.8)
  ? of CROHN'S DISEASE (ICD-555.9)
  ANEMIA, PERNICIOUS (ICD-281.0)
HYPERCHOLESTEROLEMIA (ICD-272.0)
  HYPERTRIGLYCERIDEMIA (ICD-272.1)
LEG EDEMA (ICD-782.3)
DISORDER, HEM D/T CIRCULATING ANTICOAGULANT - ? OF LUPUS AC (ICD-286.5)
OSTEOPOROSIS (ICD-733.0)
OBSTRUCTIVE SLEEP APNEA (ICD-780.57)

FATIGUE (ICD-780.7)
RETINOPATHY, CENTRAL SEROUS (ICD-362.41)
? of GLAUCOMA (ICD-365.9)
DERMATITIS, SEBORRHEIC (ICD-690.1)
? of HYPERGLYCEMIA (ICD-790.6)
DENTAL CARIES (ICD-521.00)
NEVUS, ATYPICAL (ICD-216.9)
MAJOR DEPRESSIVE DISORDER
ANXIETY DISORDER, GENERALIZED (ICD-300.02)
? of PANIC ATTACK (ICD-300.01)
ULNAR NEUROPATHY, BILATERAL (ICD-354.2)

In order to better control his many medical problems, Mr. Koltin would benefit greatly from having a stable housing situation. For this reason I ask that you help expedite his housing application process as well as any other processes that may assist him in obtaining daily food, shelter, and economic support. Attached are release forms that allow us to communicate regarding this process. If Harold needs to reapply for housing, please send me any necessary forms so that I may assist him in filling these out.

Please note that failure to obtain housing for Harold within the next three months will definitely result in significant health consequences for him. I thank you in advance for your special attention to his case.

Sincerely,

Alex Gonzalez MD